

**MINUTES OF
FAUQUIER COUNTY BOARD OF ZONING APPEALS**

July 5, 2001

The Fauquier County Board of Zoning Appeals held its regularly scheduled meeting on Thursday, July 5, 2001, at 2:00 P.M. in the Meeting Room of the Warren Green Building, 10 Hotel Street, Warrenton, Virginia. Members present were Mr. William Rider, Chairman; Mr. William Barr, Vice Chairman; Mrs. Peg Mailler, Mr. John Meadows, Mr. James VanLuven and Mr. Maximilian A. Tufts, Jr. Also present were Mr. Paul McCulla, County Attorney; Mrs. Carolyn Bowen, Zoning Administrator; Mr. Fred Hodge, Assistant Zoning Administrator; Ms. Holly Meade, Planner; and Mrs. Beverly Pullen, Office Associate. Mr. Eugene Lofdahl was absent.

MINUTES

The minutes of the June 7, 2001 meeting were approved as submitted.

LETTERS OF NOTIFICATIONS

PUBLIC NOTICE Mrs. Bowen stated that to the best of her knowledge, the cases before the Board of Zoning Appeals for a public hearing have been properly advertised, posted, and letters of notification sent to adjoining property owners.

SPECIAL PERMIT #47444 JEREMIAH AND VIRGINIA KEARNS (OWNERS) AND JOSEPH AND DEBBIE STAMBAUGH (APPLICANT-LESSEE)

Applicants are requesting special permit approval to continue operating a kennel. The BZA issued special permit approval in June, 1998 for three years. The applicants are requesting an increase in the number of dogs from 12 to 20, and are also requesting a time period of ten (10) years. The subject property is identified as PIN #7824-79-8039-000, containing approximately 27.25 acres, located at 3368 Thompsons Mill Road (State Route 615), zoned Rural Agriculture, in Cedar Run District.

Mr. Hodge stated that a public hearing was held on June 7th and had been closed. He further stated that additional material had been submitted by the applicant and that a site visit was made earlier.

Mr. Rider stated that during the site visit it was noted that there are not existing homes in close proximity to the kennel.

Mr. and Mrs. Stambaugh were present in support of their request. Mr. Stambaugh stated that the only variation to the material submitted, was that on Saturday and Sunday, he and his son like to

shoot clay pigeons and would like to be allowed to do so.

Mr. Rider asked Mr. Stambaugh to show the area on the submitted plat. Mr. Stambaugh indicated the Areas B&C on the submitted plat.

The Board discussed the specific areas as shown on the plat submitted by Mr. and Mrs. Stambaugh.

Mr. McCulla stated that the Board of Zoning Appeals has the ability to limit or condition the permit.

On the motion made by Mr. Meadows, and seconded by Mrs. Mailler, it was moved to grant special permit #47444, after due notice and hearing, as required by Code of Virginia §15.2-2204 and Section 5-009 of the Fauquier County Code, based upon the Board's findings:

1. The proposed use will not adversely effect the use or development of neighboring properties.
2. It is in accordance with the applicable zoning district regulations and to applicable provisions of the adopted Comprehensive Plan, and does conform to the general standards set forth in Section 5-006(1) through (9) of the Zoning Ordinance of Fauquier County, which sections are incorporated in this Motion as if fully set forth.
3. The use will be compatible with the neighborhood in which it is to be located.
4. The application does comply with the specific standards which apply to the use in question, namely:

5-1301

Additional Standards for Kennels

1. The minimum lot size requirement shall be two (2) acres.
2. No structure for the confinement, care or breeding of dogs, and no associated structure shall be located closer than 75 feet to any lot line, except that this requirement shall not apply to structures which are completely enclosed, adequately soundproofed and constructed so that there will be no emission of odor or noise detrimental to other properties in the area
3. All dogs shall be kept in pens designed and maintained for secure confinement.
4. In consideration of an application for a permit, the BZA shall take into account the numbers and kinds of dogs proposed to be kept and the

characteristics thereof and may prescribe conditions with respect thereto.

5. Maximum of ten (10) dogs per acre.

5. The special permit is granted subject to the following conditions, safeguards, and restrictions upon the proposed uses as are deemed necessary in the public interest to secure compliance with the provisions of this Ordinance: (Conditions including, but not limited to, those recited in Section 5-007 A-L of the Zoning Ordinance):

- (1) The maximum number of dogs allowed is twenty (20), not including personal pets.
- (2) Special permit is granted for a period of eight (8) years.
- (3) Special permit shall convey only with the sale of the property from the Kearns to the Stambaughs.
- (4) Provide screening along the front property line/Thompsons Mill Road (State Route 615) of a single row of white pines to be six (6) feet tall, and planted twelve (12) feet apart, inside the fence line, by January 1, 2002. Trees to be maintained and replaced as necessary.
- (5) Starter pistols may be used for training from 7:00 A.M. to 8:00 P.M., Monday through Friday and 9:00 A.M. to 6:00 P.M., Saturday and Sunday.
- (6) Shotguns may be used for training from 7:00 A.M. to 8:00 P.M., Monday through Friday. Shotguns are not allowed to be used on Saturday or Sunday for training purposes.
- (7) Blank shotgun ammunition will not be used within twenty-five (25) yards of the property lines and live ammunition will not be used within forty (40) yards of the property lines.
- (8) The special permit is subject to the Map Description and General Comments as submitted by the Stambaugh's, as well as the accompanying document entitled map/site plan showing areas labeled A through E.

The motion carried unanimously.

SPECIAL PERMIT #47413 DONALD E. AND JANIE G. JONES (OWNERS)

Applicants are requesting special permit approval to operate a farm equipment sales and service business. The subject property is identified as PIN #6953-47-9783-000, containing approximately 5.492 acres, located at 9488 Old Waterloo Road (State Route 691), zoned Rural Agriculture, in Marshall District.

Mr. Hodge stated that a public hearing was held at the June 7th meeting and had been closed. He stated that the matter was continued for additional information regarding the entrance, and

limitations on the display area. He explained that Mrs. Bowen spoke with David Cubbage of Virginia Department of Transportation on June 26th and he said that VDOT probably would require some type of modified commercial entrance. Mr. Hodge further explained that Section 5-1404 states that "...no parking, storage, loading or display shall be conducted in any required front yard or within fifty (50) feet of any side or rear lot line." He explained that the required front yard setback for this property is 75 feet from the centerline of Route 691. Mr. Hodge stated that the site was visited last month.

Mr. Rider stated that letters of support had been received since last month's meeting.

Mrs. Bowen explained that there cannot be any display in the front setback area. She stated that staff has prepared suggested conditions for the BZA's consideration in this permit. She stated that she spoke with Mr. Jones this morning regarding the suggested conditions.

Mr. Rider asked Mr. Jones if he understood the setback area required for any display of equipment, as well as the area that could be used for parking of vehicles awaiting repairs.

Mr. Jones stated that most of his work, approximately 60% is done off-site, however he stated that he understood.

Mrs. Bowen stated that the setback area does not apply to personal vehicles or equipment.

On the motion made by Mr. Tufts, and seconded by Mr. Van Luven, it was moved to grant special permit #47413, after due notice and hearing, as required by Code of Virginia §15.2-2204 and Section 5-009 of the Fauquier County Code, based upon the Board's findings:

1. The proposed use will not adversely effect the use or development of neighboring properties.
2. It is in accordance with the applicable zoning district regulations and to applicable provisions of the adopted Comprehensive Plan, and does conform to the general standards set forth in Section 5-006(1) through (9) of the Zoning Ordinance of Fauquier County, which sections are incorporated in this Motion as if fully set forth.
3. The use will be compatible with the neighborhood in which it is to be located.
4. The application does comply with the specific standards which apply to the use in question, namely:

5-1404 Additional Standards for Farm Equipment Sales, Rental and Service Establishments

Such uses shall satisfy the same standards as set forth in Section 1403 above, except that in Residential and Rural Zoning Districts no parking, storage, loading or display shall be conducted in any required front yard or within fifty (50) feet of any side or rear lot line.

5. The special permit is granted subject to the following conditions, safeguards, and restrictions upon the proposed uses as are deemed necessary in the public interest to secure compliance with the provisions of this Ordinance: (Conditions including, but not limited to, those recited in Section 5-007 A-L of the Zoning Ordinance):
 - (1) Inventory of equipment stored on site to be sold and/or repaired shall be limited to ten (10).
 - (2) Hours of operation shall be 7:00 A.M. until 6:30 P.M., Monday through Friday.
 - (3) Storage or display of equipment to be repaired or sold must not be closer than fifty (50) feet from any side or rear property line.
 - (4) Entrance shall meet VDOT specifications as required at the time of site plan approval.
 - (5) Site plan approval as required.

The motion carried unanimously.

VARIANCE #47620 EDWARD L. AND TARA E. YATES (OWNERS)

Applicants are requesting a variance to a side yard requirement to construct a single family dwelling 13.5 feet from a side property line, wherein the Zoning Ordinance requires 15 feet. The subject property is identified as PIN #6993-49-7668-000, containing approximately 1.525 acres, located on Fry's Lane (State Route 771), zoned Village, in Center District.

Mr. Hodge reviewed the staff report and stated that the site was visited earlier. He explained that the property is zoned Village, but is a non-conforming lot because the width of the parcel. He further explained that the applicants have requested the variance based on the narrowness of the lot, and the location of the well and drainfield site.

Mr. and Mrs. Yates were present regarding their request. Mr. Yates stated that due to the location of the well, drainfield and reserve area, a variance of 1.5 feet from the side property lines is needed to locate a dwelling.

Mr. Rider asked if anyone wished to speak in support or opposition.

No one spoke.

On the motion made by Mrs. Mailler, and seconded by Mr. Barr, it was moved to grant variance #47620, based on the Board's findings, after due notice and hearing, as provided by §15.2-2204 of the Code of Virginia:

1. The property was acquired in good faith; and
2. Strict application of the Ordinance would effectively prohibit or unreasonably restrict use of the property because of the narrowness of the lot, and the location and the well, drainfield and reserve area.
3. The granting of the variance will alleviate a clearly demonstrable hardship

approaching confiscating, and is distinguished from a special privilege or convenience sought by the applicant.

4. The hardship or restrictions on the use of the property are by reason of:

(a) the exceptional narrowness of the property at the time of the effective date of the Ordinance;

5. The size or shape, exceptional conditions, or extraordinary situation which result in the hardship or restrictions on the use of the applicant's property are

(a) the exceptional narrowness of the property at the time of the effective date of the Ordinance;

6. The variance will be in harmony with the intended spirit and purpose of the Ordinance, and would result in substantial justice being done.

7. The strict application of the Ordinance will produce undue hardship.

8. Such hardship is not shared generally by other properties in the same zoning district and the same vicinity and is not of so general or recurring a nature as to make reasonably practical the formation of a general regulation to be adopted as an amendment to the Ordinance.

9. The authorization of the variance will not be of substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variance.

10. The minimum variance that is necessary to afford relief is 1.5 feet from each side property line.

The motion carried unanimously.

VARIANCE #47631 HUBERT F., III AND SANDRA K. RAMEY (OWNERS)

Applicants are requesting a variance for a proposed addition to an existing dwelling. The proposed addition would be located 9 ½ feet from the rear property line, wherein the Zoning Ordinance requires 15 feet. The subject property is identified as PIN #6994-19-1807-000, containing approximately .538 acre, located at 6304 Shannon Court off of Cedar Run Drive (State Route 1405), zoned Residential-1 Cluster, in Center District.

Mr. Hodge reviewed the staff report and stated that the site was visited. He explained that only one corner of the proposed addition needs a variance of 5.5 feet, the other corner meets the setback requirement to the rear property line.

Mr. and Mrs. Ramey were present regarding their request. Mr. Ramey stated that due to the location of the drainfield on the front portion of the property, they want to place a family room

addition on the rear of the dwelling, and a variance is needed for one corner of the addition.

Mr. Rider asked if anyone wished to speak in support or opposition.

No one spoke.

Mr. Meadows referenced a letter of support in the file from Steven and Linda Poteat.

On the motion made by Mr. Barr and seconded by Mr. Meadows, it was moved to grant variance #47631, based on the Board's findings, after due notice and hearing, as provided by §15.2-2204 of the Code of Virginia:

1. The property was acquired in good faith; and
2. Strict application of the Ordinance would effectively prohibit or unreasonably restrict use of the property because of the location of the drainfield and placement of the dwelling.
3. The granting of the variance will alleviate a clearly demonstrable hardship approaching confiscating, and is distinguished from a special privilege or convenience sought by the applicant.
5. The variance will be in harmony with the intended spirit and purpose of the Ordinance, and would result in substantial justice being done.
6. The strict application of the Ordinance will produce undue hardship.
7. Such hardship is not shared generally by other properties in the same zoning district and the same vicinity and is not of so general or recurring a nature as to make reasonably practical the formation of a general regulation to be adopted as an amendment to the Ordinance.
8. The authorization of the variance will not be of substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variance.
9. The minimum variance that is necessary to afford relief is 5.5 feet from the rear property line.

The motion carried unanimously.

ADJOURNMENT There being no further business before the Board, the meeting adjourned at approximately 3:05 P.M.

William Rider, Chairman

Copies of all files and materials presented to the Board are attached to and become a part of these minutes. A tape recording of the meeting is on file for one year.

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